

47th Legislative Session
Summaries of Relevant Bills
Monday, June 20, 2005
For the Arizona Judicial Council

2005 Legislative Session at a glance:

BILLS POSTED: 1311
BILLS PASSED: 392
BILLS VETOED: 58
BILLS SIGNED: 334
MEMORIAL RESOLUTIONS POSTED: 132
MEMORIAL RESOLUTIONS PASSED: 25

Arizona Judicial Council 2005 Legislative Package

CHAPTER 206 (SB1353) MEDICAL RECORDS; CONFIDENTIALITY (Sen. Hellon)
4/25 - signed by governor. Chap. 206, Laws 2005.

CHAPTER 291 (HB2242) MENTAL HEALTH SERVICES; LEGAL REP. (Rep. Hershberger)
5/20- signed by governor, Chap. 291, Laws 2005.

CHAPTER 296 (HB2620) DRUG COURTS; APPROPRIATION (Rep. Konopnicki)
5/20- signed by governor, Chap. 296, Laws 2005.

FIDUCIARY PROGRAM FUNDING
Part of our appropriations request, but not funded.

Bills Impacting the Courts

Superior Courts

CHAPTER 2 (SB 1372) HUMAN TRAFFICKING; FORCED LABOR (Sen. Jarrett)

Establishes numerous criminal offenses for human trafficking and human smuggling.

- It is a class 4 felony to knowingly obtain labor from a person by threatening or restraining the person or withholding the person's government records or personal property.
- It is a class 2 felony for a person to commit the offense of sex trafficking. Sex trafficking is defined as a person who knowingly recruits, entices, harbors, transports, provides or obtains by any means another person with the intent of causing the other person to engage in prostitution by force, fraud or coercion.
- Sex trafficking that is committed against a person who is under the age of 15 is a dangerous crime against children (§13-604.01). (The provision establishing the dangerous crime against children classification is defective and is remedied in Chapter 282).
- It is a class 4 felony to knowingly traffic a person with the intent or knowledge that the person will be subject to forced labor, or to knowingly benefit financially or receive anything of value through participation of unlawful labor or sex trafficking.
- It is a class 5 felony to engage in human smuggling for profit or commercial purposes.

The bill directs the court to provide for restitution to victims of sex trafficking and persons who were trafficked for the purposes of forced labor or services.

3/14 – Signed by governor. Chp. 2, 2005 Laws.

CHAPTER 13 (HB 2161) CORPORATIONS; LLCs; VIOLATIONS (Rep Robson)

Establishes a new Class 4 felony offense for limited liability companies (LLC), and increases the felony classification for corporations to Class 4, if a person knowingly fails or refuses to respond in a timely manner to interrogatories propounded by the Corporation Commission, or signs any articles, statement, report, application or other document filed with the commission that is known to the person as false. Also establishes the same Class 5 felony for limited liability companies as exists for corporations, if a person, with the intent to defraud or deceive, knowingly falsifies, alters, steals, destroys, mutilates, defaces, removes or secretes the books, records or accounts.

4/1 – Signed by governor. Chp. 13, Laws 2005.

CHAPTER 7 (HB2569) SAFETY PRODUCTS CERTIFICATION (Rep. Robson)

It is illegal to sell a product designed for the safety of law enforcement; fire fighting or emergency medical services personnel, with the exception of firearms unless an independent tester or regulatory agency certifies all claims of the manufacturer as to purpose and warranty of fitness. May affect probation departments

3/30 - Signed by governor. Chap. 7, Laws 2005.

CHAPTER 20 (HB2522) CRIMINAL SENTENCING; AGGRAVATING FACTORS (Rep. Farnsworth)

Statutes that establish sentencing guidelines for class 2 through class 6 felonies are revised to state that aggravating factors must be determined by the "trier of fact". If the trier of fact finds one aggravating factor beyond a reasonable doubt the trial court may find others by a preponderance of the evidence. A new aggravating factor is added, any factor the state alleges that is relevant to the defendant's character or background or to the nature or circumstances of the crime. *This is the so-called "Blakely" fix.*

4/1 - Signed by governor. Chap. 20, Laws 2005.

CHAPTER 45 (SB 1045) CHILD CUSTODY RECODIFICATION (Sen. Johnson)

Statutes relating to child custody and visitation are reorganized after they had become lengthy and difficult to follow over the years. No substantive changes to the law were enacted. This was the result of research and recommendations by the Domestic Relations Committee.

4/11 - Signed by governor. Chp. 45, Laws 2005.

CHAPTER 49 (SB 1086) REDACTION OF RECORDS; VICTIMS OF DOMESTIC VIOLENCE (Sen. Waring)

In Maricopa and Pima counties, (in all counties effective, July 1, 2006 pursuant Chapter 243) victims of domestic violence or stalking and persons under orders of protection or injunctions against harassment are added to the list of persons who may request the general public be prohibited from accessing identifier information contained in recorded instruments maintained by the county assessor, recorder and county treasurer. These same persons, as well as those residing with the person, are added to the list of people who may request their personal voter information be kept from the public.

All redactions are at the discretion of the presiding judge and are effective for five years. Note, confidentiality of personal voter information currently applies statewide.

"Stalking" and "Victim of domestic violence" are defined. Procedures to apply for redaction are included in statute.

4/11 - Signed by governor. Chp. 49, Laws 2005.

CHAPTER 51 (SB1113) SEARCH WARRANTS EXECUTION (Sen. Huppenthal)

A time line governing the service of and public access to search warrants is changed: they shall be executed within 5 calendar days of issue and returned to a magistrate within 3 business days of service. A magistrate may extend the time for service for a maximum of 5 additional calendar days. [Note: formerly warrants had to be executed and returned within 5 days of issue.] Documents and records pertaining to the warrant previously available to the public as soon as they were returned to the court may be made available earlier or later if a magistrate so rules for good cause.

4/11 – Signed by governor. Chap. 51, Laws 2005.

CHAPTER 74 (HB 2305) EXCUSE FROM JURY SERVICE (Rep. Nelson)

Clarifies criteria for a person to be excused from jury service. Permits a judge or jury commissioner to excuse a person from jury service for various reasons, including good cause and undue or extreme physical or financial hardship as defined in statute.

Excuses based on the mental or physical condition of the prospective juror are at the discretion of the court or jury commission, but such excuses must be based on explanation by a physician or professional caregiver containing information required by statute. A form setting forth the requirements must be made available at courthouses, the Arizona Medical Board web site and other appropriate locations. Statements submitted by the physician or caregiver are not public records.

Prospective jurors, 75 years or older may opt out, permanently or temporarily, from service.

Emergency clause; effective April 13, 2005.

4/13 - Signed by governor. Chp. 74, Laws 2005.

CHAPTER 82 (SB1017) STATE OFFICER/EMPLOYEE PAYROLL DEDUCTION (Sen. Waring)

The list of permissible payroll deductions for state employees is expanded to include payments on a computer system for personal use and for premiums on any state-sponsored group benefit programs established primarily to serve state officers, employees and their families and specifically including long-term care insurance, critical care insurance, prepaid legal services and identity theft protection services.

4/18 - Signed by governor. Chap. 82, Laws 2005.

CHAPTER 87 (SB1071) DOMESTIC VIOLENCE FATALITY REVIEW TEAM (Sen. Waring)

Political subdivisions may individually or cooperatively establish domestic violence fatality review teams. The stated purpose is to better understand the dynamics of such fatalities, how they may be prevented and how the system can be improved. Minimum requirements for such teams are prescribed. Teams must include a representative of a local law enforcement agency, a county or municipal court, a prosecutor's office, a domestic violence prevention program, a domestic violence victim, a public health agency and a medical examiner. Results of reviews are forwarded to a statewide domestic violence coalition. Sources of information and witness testimony before the review team are confidential and review team meetings are closed to the public.

4/18 - Signed by governor. Chap. 87, Laws 2005.

CHAPTER 107 (SB1311) CERTIFIED REPORTERS; VERBATIM RECORDS (Sen. Waring)

Establishes voice writers within the regulatory framework now in effect for court reporters. References to "court reporter" are changed to "certified reporter" and the work product is now called a "verbatim record" of a proceeding. For regulatory purposes, the profession of certified reporter includes "voice writing" which is defined as making a verbatim record by repeating the words of a speaker into a device that either transcribes or creates a recording. Voice writers do not have to be permanently certified until Jan. 1, 2007.

4/18 - Signed by governor. Chap. 107, Laws 2005.

CHAPTER 112 (SB1418) LAW ENFORCEMENT OFFICERS; DUE PROCESS (Sen. Huppenthal)

Prohibits an employer from disciplining, retaliating against or threatening to retaliate against a law enforcement officer (would also apply to probation officers if SB1303 passes) for requesting that a representative be present or for acting as the representative of a law enforcement officer in a disciplinary matter. Prohibits an employer from disciplining, retaliating against or threatening to retaliate against any witness for agreeing to be interviewed or for testifying or providing evidence in a disciplinary appeal. Sets some disclosure deadlines in disciplinary hearings. If an employer (such as city manager) amends, modifies, rejects or reverses the decision of a hearing officer, administrative law judge or board, the employer must state the employer's reasons for the amendment, modification, rejection or reversal.

4/18 - Signed by governor. Chap. 112, Laws 2005.

CHAPTER 117 (HB2069) CLERK OF THE COURT; SALARY (Rep. Nelson)

The salary for the clerk of the superior court in counties with a population of at least 500,000 is increased to \$76,600 from \$67,800. In smaller counties, the clerk's salary is increased to \$63,800 from \$56,500.

4/18 - Signed by governor. Chap. 117, Laws 2005.

CHAPTER 130 (HB 2249) CHILD SUPPORT FOR CHILDREN WITH DISABILITIES; PATERNITY (Rep. Hershberger)

Provides criteria for determining child support for a disabled child past the age of majority. Also, provides the court with authority to determine child support if the respondent admits or does not deny maternity or paternity in a written response. Eliminates oral answers, and allows the court to enter maternity or paternity judgments if the respondent does not reply.

4/18 - Signed by governor. Chp. 130, Laws 2005.

CHAPTER 133 (HB 2259) IMMIGRATION LAW VIOLATION (Rep. Gray)

Requires the court to consider, as an aggravating circumstance in non-capital cases, whether a defendant was in violation of federal immigration law at the time of the commission of the offense for which the defendant is convicted.

4/18 - Signed by governor. Chp. 133, Laws 2005.

CHAPTER 137 (HB 2428) EMANCIPATION OF MINORS (Rep. Anderson)

Establishes court proceedings and criteria for a minor, who is at least 16 years of age, to become emancipated from the minor's parents. Emancipated minors have certain rights as adults, including the ability to sue and be sued, buy and sell property, incur debts, access records, obtain certain licenses, etc. Creates the Emancipation Administrative Costs Fund, financed by the filing fee for emancipation, and administered by the county treasurer to cover the costs associated with emancipation. From October 1, 2005 through September 30, 2007, the AOC is required to collect information relating to emancipation and file a report to be included in its annual report.

4/18 - Signed by governor. Chp. 137, Laws 2005.

CHAPTER 141 (HB 2528) CIVIL ACTIONS; CRIMINAL CONDUCT (Rep. Nichols)

Creates a one year statute of limitations from the final disposition of criminal proceedings, for a civil action filed by the victim for criminal conduct by the defendant against that victim, whether or not the defendant was convicted of the conduct, and regardless of when that conduct occurred. The bill does not shorten any now existing statute of limitations.

4/18 - Signed by governor. Chp. 141, Laws 2005.

CHAPTER 145 (SB1144) INDIGENT DEFENSE; FEES (Sen. Huppenthal)

A statute requiring a judge in a capital case to appoint investigators and expert witnesses on behalf of a defendant who cannot otherwise afford them is expanded to apply to all felony cases. The requirement that the county pay for these investigators and experts at a rate determined by the judge is revised to state that they are to be paid at such rates as the county contracts for such services unless no county-contracted investigator or expert is available or the defendant cannot obtain the services at the county rate, in which case the judge is to decide what should be paid.

4/20 - Signed by governor. Chap. 145, Laws 2005.

CHAPTER 174 (SB 1313) SUPPORT PAYMENTS; ELECTRONIC TRANSFERS (Sen. Waring)

The Department of Economic Security is required to establish a mandatory process for transferring support payments electronically to an account designated by the person to whom the payments are owed. The person will have access to the account using an electronic access card issued by the department. Electronic transfer is mandatory unless hardship can be shown in writing. If electronic transfer is not feasible, DES may authorize payment by warrant.

Emergency clause; effective April 22, 2005.

4/22 - Signed by governor. Chp. 174, Laws 2005.

CHAPTER 183 (SB 1036) MEDICAL MALPRACTICE; PROCEDURAL FORMS (Sen. Allen)

Establishes criteria for expert testimony in medical malpractice actions, including that an expert must be a licensed health care professional with the same level of training or same type of specialist as the defendant. In addition, the expert must practice or teach in the same area of medicine as the other expert during the year immediately preceding the occurrence giving rise to the lawsuit. Any statements or conduct by the health care provider or the provider's employee expressing an apology, responsibility, sympathy, compassion or commiseration is inadmissible as evidence of an admission of liability or as evidence of an admission against interest.

4/25 - Signed by governor. Chp. 183, Laws 2005.

CHAPTER 185 (SB1040) SEXUAL ASSAULT OF A SPOUSE (Sen. Blendu)

Repeals the specific Sexual Assault of a Spouse statute. Establishes the crime of false reporting of sexual assault involving a spouse, a class 1 misdemeanor. Adds sexual assault of a spouse to the definition of "sexually violent offense". Floor amendment states the DPS must provide a copy of each applicable disposition reporting form relating to sexual assault of a spouse and false reporting of sexual assault of a spouse to the Arizona Criminal Justice Commission, who will maintain the records and annually submit a detailed report of statistics on sexual assault of a spouse offenses to the governor, the president of the senate and the speaker of the house of representatives and provide a copy of this report to the secretary of state and the director of the Arizona state library, archives and public records.

4/25 - Signed by governor. Chap. 185, Laws 2005.

CHAPTER 187 (SB1047) COMMUNITY RESTITUTION (Sen. Johnson)

The term "community service" as a sentence is changed to "community restitution" everywhere in statute. Delayed Effective Date of January 1, 2006. The courts, probation and prosecutors may use forms with the words "community service" until they completely run out, in order to cut costs.

4/25 - Signed by governor. Chap. 187, Laws 2005.

CHAPTER 188 (SB1052) CHILDREN, UNBORN; CRIMES (Sen. Jarrett)

Certain criminal actions, including all homicides that result in harm or death of an unborn child is an offense that is separate from and in addition to the crime against the child's mother. It need not be proven that the defendant knew that the woman was pregnant. Exception for legal abortion. Includes "unborn child" in the dangerous crimes against children statute equating the unborn child to a child under twelve years old.

4/25 - Signed by governor. Chap. 188, Laws 2005.

CHAPTER 203 (SB1303) EMPLOYEE RIGHTS; PROBATION OFFICERS (Sen. Johnson)

Strike-everything amendment. Probation and surveillance officers are added to statutes governing overtime compensation for law enforcement personnel right to form unions, and various rights related to disciplinary actions. Probation officers shall be compensated for each hour worked beyond 80 hours in a two-week work period by either receiving time and a half pay or compensatory time off.

4/25 - Signed by governor. Chap. 203, Laws 2005.

CHAPTER 243 (HB2500) PROPERTY RECORDS; REDACTION (Rep. Alvarez)

Permits redaction of personnel in the criminal justice system (judges, prosecutors, peace officers, etc) to be statewide. Currently, it only applies to Maricopa and Pima counties.

5/2 - Signed by governor. Chap. 243, Laws 2005.

CHAPTER 252 (SB1013) RESTORATION TO COMPETENCY (Sen. Jarrett)

Strike-everything amendment. The authority for a judge to commit a criminal defendant to the state hospital for treatment to restore him to competency to stand trial is limited to counties where county supervisors have not designated a county competency-restoration program. If there is such a county program, the judge must commit the defendant to that program. County boards that have designated such programs authorized to contract with providers, including the state hospital, for treatment. Authority is granted for county-program treatment to be given to defendants in county jails and for a county program to obtain court orders to transport defendants to other providers. A reference to "outpatient" treatment is changed to "out of custody" treatment. A judge must determine that confinement is necessary for treatment before committing a defendant to a county program or the state hospital. (Formerly SB1217) Also includes language stating the court shall order the defendant to pay the costs of a court ordered examination, except that if the court finds the defendant is indigent or otherwise unable to pay all or any part of the costs or if the prosecution requested the examination, the court shall order the county to pay the costs of the examination or, if the case is referred by a municipal court judge, the court shall order the city shall to pay the costs of the examination.

5/4 - Signed by governor. Chap. Number 252 law 2005

CHAPTER 282 (SB1338) SEX OFFENDER REGISTRATION (Sen. Martin)

So-called “Sex Offense Omnibus.” The information required to be provided by a sex offender in registering with the county sheriff is expanded to include details on the person's place of residence, mail address and landlord (if applicable). If the offender receives mail at a post office box, the location and number must be provided. A floor amendment integrates SB1296, that states it is illegal for a probation officer to approve the residence of a probationer who has been convicted of a felony offense that requires the probationer to register as a sex offender in any multifamily dwelling unless the number of probationers who are required to register and who reside in the multifamily dwelling is less than ten per cent of the number of dwelling units that are contained in the multifamily dwelling. Not more than one probationer who is classified as a level three offender shall reside in a multifamily dwelling. Applies only to areas zoned residential only, and Maricopa County. Second floor amendment corrects an error in the Sex Trafficking of a Minor under 15; a bill recently signed by the Governor, by designating which subsection of Dangerous Crimes Against Children Sex Trafficking is inserted for sentencing purposes, a presumptive sentence of twenty years.

5/11 – Signed by governor, Chap. 282, Laws 2005.

CHAPTER 295 (HB2439) FIRST RESPONDERS BLDG INFO SYSTEM (Rep. McComish)

The state Office of Homeland Security is required to develop a computer-based program using first responder information technology regarding details of a building, including floor and site plans, fire protection information, tactical and disaster preplans, utility information and known hazards. State agencies and local governments shall make efforts to ensure that the statewide system is interoperable with other first responder public building information systems allowed by law. The act becomes effective only if the Office of Homeland Security receives necessary funding by Dec. 31, 2006.

5/20- Signed by governor, Chap. 295, Laws 2005.

CHAPTER 320 (SB1384) SEX OFFENDERS; LIFETIME PROBATION (Sen. Martin)

Adds Failure to Register as a Sex Offender if placed on probation and the underlying offense is a felony to the list of offenses for which the judge may impose lifetime probation.

5/20- Signed by governor, Chap. 320, Laws 2005.

CHAPTER 325 (SB1429) CAPITAL CASES; SENTENCING (Sen. Huppenthal)

Specifically defines “victim” in the victim’s rights provisions of the juvenile and criminal code if the person against whom the crime is committed is killed or incapacitated. The victim includes a spouse, parent, child, grandparent or sibling, any other person related to the person by consanguinity or affinity to the second degree or any other lawful representative, unless the person who would qualify as a victim is in custody for an offense or is the accused. In capital cases, the list of aggravating circumstances used to determine whether to impose the death penalty is expanded to include (1) commission of the offense in connection with a gang initiation, (2) commission of the offense to prevent a person from cooperating with law enforcement or being a witness and (3) the offense was committed in a cold, calculated manner without pretense of moral or legal justification. If the trier of fact in a capital case finds an aggravating factor and at the penalty phase finds a mitigating circumstance sufficient to warrant leniency or the trier of fact does not impose death the court must sentence the defendant to natural life. In the sentencing phase if the defendant bears the burden of proof, the issue shall be determined in the penalty phase, if the state bears the burden of proof, the issue shall be determined in the aggravation phase of the trial. The report of a psychological expert shall be released on motion of any party if the defendant raises a mental health defense at trial or sentencing. Adds Burglary second degree and Terrorism to the list of “serious offenses” as defined in 13-604. offenses” as defined in 13-703.

5/20- Signed by governor, Chap. 325, Laws 2005.

CHAPTER 327 (SB1473) DRUGS; PRECURSOR CHEMICALS; VIOLATION (Sen. Leff)

A new crime is established, A.R.S. §13-712, Manufacturing methamphetamine under circumstances that cause physical injury to a minor. The offense is a Class two felony, the minor must be under 15 years of age and the offense is punishable as a dangerous crime against children. Possession of Methamphetamine for Sale, Possession of equipment or chemicals to manufacture Methamphetamine, Manufacturing Methamphetamine and Trafficking in Methamphetamine (sale, import, offer to sell etc) carries its own sentencing provisions, A.R.S. §13-712. For the first offense the range is 5-10-15 years, for second offense the range is 10-15-20 years. The defendant is not eligible for probation. In setting bail the court must consider if the person committed one of the above named offenses. Products in which pseudoephedrine is the single active product must be kept behind a store counter or in a locked facility inaccessible to customers without the assistance of an employee. Does not apply to liquid, liquid capsule or gel capsule form of the product. Restrictions on purchasing pseudoephedrine, norpseudoephedrine, phenylpropanolamine and ephedrine. Permits a county or city to remediate a property contaminated by methamphetamine if the owner does not. The cost is passed on to the owner in the form of a property lien. Provides authority for DHS to accept and spend grant monies for methamphetamine education. The monies can only be disbursed to local prosecutorial or law enforcement agencies with existing programs, faith based organizations and non profit entities providing services to women with a history of dual diagnosis disorders that provide educational programs on the repercussions of methamphetamine use.

5/20- Signed by governor, Chap. 327, Laws 2005.

Victims' Rights

CHAPTER 93 (SB1152) RESTITUTION ORDERS; JUVENILES (Sen. Brotherton)

The statute governing restitution payments by juveniles who are judged delinquent is expanded to require a "juvenile restitution order" instead of a "judgment" and to require the orders to include full name, known aliases, date of birth, and last known address. The 180-day limit on a court retaining jurisdiction of a case after a juvenile delinquent turns 18 is repealed. The court retains jurisdiction past the juvenile's 18th birthday in order to modify how payments are made and to issue a juvenile restitution order. A juvenile restitution order does not expire until paid in full and is a criminal penalty for purposes of federal bankruptcy proceedings. The prosecutor must inform the victim that a predisposition hearing or disposition hearing may be held immediately following the adjudication hearing.

4/18 - Signed by governor. Chap. 93, Laws 2005.

CHAPTER 102 (SB1267) JUVENILE VICTIMS' RIGHTS; STATEMENT (Sen. Brotherton)

A victim of a crime committed by a juvenile must be advised by the judge of the victim's rights. The text of a statement to be read by the judge is written into statute.

4/18 - Signed by governor. Chap. 102, Laws 2005.

CHAPTER 154 (HB2337) VICTIM'S RIGHTS (Rep. Smith)

Expansion of victims' rights to include victims whose counts were dismissed in a plea agreement if otherwise entitled to victim's rights. *This bill is also rolled into the Victims' Rights Omnibus bill and the two versions will be blended.*

4/20 - Signed by governor. Chap. 154, Laws 2005.

CHAPTER 260 (SB1433) VICTIMS' RIGHTS OMNIBUS (Sen. Huppenthal)

A number of changes expanding the victim's rights statutes including:

(1) On request of the victim, the probation department shall notify the victim of the following:

1. Notice of any probation violation hearing.
2. Any proposed modification to any term of probation if the modification affects restitution or incarceration status or the delinquent's contact with or the safety of the victim
3. The victim's right to be heard at a hearing set to consider any modification is made to any term of probation.
4. Any violation of any term of probation that results in a petition to revoke.
5. The juvenile absconded from probation.
6. Any conduct by the juvenile that raises a substantial concern for the victim's safety.

(2) The juvenile court shall provide the victim's request for post adjudication notice to the department of juvenile corrections.

(3) A statement of victim's rights must be read by the court to the victim of a case in juvenile court

(4) Prohibition against petitioning the Board of Executive Clemency more than once every five years for offenses involving murder or serious injury, dangerous crimes against children and felony sex offenses. The board can extend time beyond ten years for offenses involving murder.

(5) Enforcement of a criminal restitution order by any person who is entitled to restitution or by the state includes the collection of interest that accrues pursuant to section 44-1201 in the same manner as any civil judgment.

(6) Inclusion of the victim's attorney in all trial court bench conferences that directly affect a constitutional victims' right.

(7) Expansion of victims' rights to include victims whose counts were dismissed in a plea agreement if the victim is otherwise entitled to victim's rights.

(8) In a capital case a victim may file a response to a request for extension for time in an appellate or post-conviction relief proceeding. The victim or the state can file the response, notice of the filing must be made to the victim by the party requesting the extension and there is no right to oral argument. Repealed Oct. 1, 2007.

5/4 - Signed by governor. Chapter 260, Laws 2005.

Judiciary Issues

CHAPTER 142 (HB2676) ELECTION OF JUDGES; BALLOT ORDER (Rep. Paton)

Changes the order of candidates listed on section two of the ballot as follows: (1) Superior Court Judges standing for election, (2) School District Officials, (3) Supreme Court Justices, (4) Court of Appeals Judges, (5) Superior Court Judges standing for retention (Maricopa and Pima counties only).

4/18 - Signed by governor. Chap. 142, Laws 2005.

CHAPTER 208 (SB 1366) RETIREMENT; MINIMUM EMPLOYER CONTRIBUTION (Sen. Martin)

The minimum amount that employers or members of three state retirement plans must contribute toward their employees' retirement is increased to no less than 5% beginning in fiscal year 2007. This is a 3% increase for EORP and PSPRS employers and a 1% increase for CORP employers. Excess earnings above normal cost and liabilities are to be used to reduce future employer contribution rate increases. Extra earnings may not be used for member benefit increases.

Emergency clause; effective April 25, 2005.

4/25 - Signed by governor. Chp. 183, Laws 2005.

CHAPTER 297 (HB 2621) RETIREE HEALTH INSURANCE; RURAL SUBSIDY (Rep. Konopnicki)

Continues the premium benefit supplement for Medicare eligible retired members of ASRS, CORP, PSPRS, and EORP from June 30, 2005 to June 30, 2007.

Emergency clause, effective May 20, 2005.

5/20 - Signed by governor. Chp. 297, Laws 2005.

Limited Jurisdiction Courts

CHAPTER 49 (SB 1086) REDACTION OF RECORDS; VICTIMS OF DOMESTIC VIOLENCE (Sen. Waring)

In Maricopa and Pima counties, (in all counties effective, July 1, 2006 pursuant Chapter 243) victims of domestic violence or stalking and persons under orders of protection or injunctions against harassment are added to the list of persons who may request the general public be prohibited from accessing identifier information contained in recorded instruments maintained by the county assessor, recorder and county treasurer. These same persons, as well as those residing with the person, are added to the list of people who may request their personal voter information be kept from the public.

All redactions are at the discretion of the presiding judge and are effective for five years. Note, confidentiality of personal voter information currently applies statewide.

“Stalking” and “Victim of domestic violence” are defined. Procedures to apply for redaction are included in statute.

4/11 - Signed by governor. Chp. 49, Laws 2005.

CHAPTER 51 (SB1113) SEARCH WARRANTS EXECUTION (Sen. Huppenthal)

A time line governing the service of and public access to search warrants is changed: they shall be executed within 5 calendar days of issue and returned to a magistrate within 3 business days of service. A magistrate may extend the time for service for a maximum of 5 additional calendar days. [Note: formerly warrants had to be executed and returned within 5 days of issue.] Documents and records pertaining to the warrant previously available to the public as soon as they were returned to the court may be made available earlier or later if a magistrate so rules for good cause.

4/11 – Signed by governor. Chap. 51, Laws 2005.

CHAPTER 74 (HB 2305) EXCUSE FROM JURY SERVICE (Rep. Nelson)

Clarifies criteria for a person to be excused from jury service. Permits a judge or jury commissioner to excuse a person from jury service for various reasons, including good cause and undue or extreme physical or financial hardship as defined in statute.

Excuses based on the mental or physical condition of the prospective juror are at the discretion of the court or jury commission, but such excuses must be based on explanation by a physician or professional caregiver containing information required by statute. A form setting forth the requirements must be made available at courthouses, the Arizona Medical Board web site and other appropriate locations. Statements submitted by the physician or caregiver are not public records.

Prospective jurors, 75 years or older may opt out, permanently or temporarily, from service.

Emergency clause; effective April 13, 2005

4/13 - Signed by governor. Chp. 74, Laws 2005.

CHAPTER 141 (HB 2528) CIVIL ACTIONS; CRIMINAL CONDUCT (Rep. Nichols)

Creates a one year statute of limitations from the final disposition of criminal proceedings, for a civil action filed by the victim for criminal conduct by the defendant against that victim, whether or not the defendant was convicted of the conduct, and regardless of when that conduct occurred. The bill does not shorten any now existing statute of limitations.

4/18 - Signed by governor. Chp. 141, Laws 2005.

CHAPTER 187 (SB1047) COMMUNITY RESTITUTION (Sen. Johnson)

The term “community service” as a sentence is changed to “community restitution” everywhere in statute. Delayed Effective Date of January 1, 2006. Courts, probation and prosecutors may continue to use forms with the words “community service” until they completely run out, in order to cut costs.

4/25 - Signed by governor. Chap. 187, Laws 2005.

CHAPTER 243 (HB2500) PROPERTY RECORDS; REDACTION (Rep. Alvarez)

Permits redaction of personnel in the criminal justice system (judges, prosecutors, peace officers, etc.) to be statewide. Currently, it only applies to Maricopa and Pima counties.

5/2 - Signed by governor. Chap. 243, Laws 2005.

CHAPTER 295 (HB2439) FIRST RESPONDERS BLDG INFO SYSTEM (Rep. McComish)

The state Office of Homeland Security is required to develop a computer-based program using first responder information technology regarding details of a building, including floor and site plans, fire protection information, tactical and disaster preplans, utility information and known hazards. State agencies and local governments shall make efforts to ensure that the statewide system is interoperable with other first responder public building information systems allowed by law. The act becomes effective only if the Office of Homeland Security receives necessary funding by Dec. 31, 2006.

5/20- Signed by governor, Chap. 295, Laws 2005.

Photo Radar/Traffic

CHAPTER 113 (SB1420) MOTOR VEHICLES; UNINSURED DRIVERS (Sen. Waring)

A peace officer must impound the vehicle of a driver who is in an accident involving property damage or injury, does not have insurance and is driving on a suspended, revoked or canceled license or has never been issued a license. The officer may impound the vehicle of a driver who is driving without a license. Additionally, the penalty for driving without insurance increases to \$500 (from \$250) for a first offense, \$750 (from \$500) for a second offense and to \$1000 (from \$750) for a third offense. Current permissive license suspensions for driving without insurance are made mandatory.

4/18 – Signed by governor. Chap. 113, Laws 2005.

CHAPTER 268 (HB2115) DRIVER LICENSE SUSPENSION (Rep. Reagan)

Requires MVD to suspend the driver license of a person if the person is convicted of knowingly purchasing or providing spirituous liquor to a person under 21 years of age. Permits the court to suspend the license of a person convicted of knowingly influencing the sale, giving or serving of spirituous liquor to a person under 21 by misrepresenting the age of the person under 21 or who obtains liquor with the intent of giving or serving it to person under 21. First conviction, thirty days, second or subsequent conviction, six months. Exemptions are contained in the statute.

5/9- Signed by the governor. Chapter 268, Laws 2005.

CHAPTER 307 (SB1160) DUI ASSESSMENTS; DPS EQUIPMENT; GITEM (Sen. Waring)

Additional assessments on DUI and Aircraft OUI convictions: \$500 for first offense and \$1250 for a second offense within 5 years. For extreme DUI and Boating OUI, \$1000 for a first offense and \$1250 for a second offense within 5 years. For Aggravated DUI, Boating OUI and Aircraft OUI, an additional assessment of \$1500. Proceeds to be deposited into the general fund with an appropriation to DPS for body armor, stun guns and other safety equipment and an additional appropriation for the gang intelligence team enforcement mission (GITEM).

5/20- Signed by governor, Chap. 307, Laws 2005.

CHAPTER 312 (SB1240) DUI; IGNITION INTERLOCK LICENSES (Sen. Gray)

Persons convicted of Aggravated DUI, except a conviction under (A) (2) and persons whose license are suspended for implied consent for a first time in 60 months, may apply for an ignition-interlock restricted driver license in lieu of suspension or revocation. Implied consent requires an initial 90 day hard suspension. Juveniles whose license is suspended for alcohol and other offenses and 18-20 year olds convicted of driving with alcohol in their system must install an interlock device as a condition of obtaining a restricted license. Cleanup to §28-1383A3, Aggravated DUI (DUI with a minor in the vehicle) to clarify that the jail sentence range is that of a misdemeanor conviction for DUI but that the rest of the sentencing provisions are set forth in §28-1383.

5/20- Signed by governor, Chap. 312, Laws 2005.

CHAPTER 313 (SB1254) DUI; VEHICLE IMMOBILIZATION (Sen. Gray)

Expungement of a DUI conviction pursuant to A.R.S. §13-907 does not affect the requirement to equip a defendant's vehicle with an interlock device due to the conviction. Conforms the language in the Reckless Driving and DUI statutes on release from jail in order for a defendant to attend school or work. If a peace officer arrests a driver of a vehicle for extreme or aggravated DUI or if the driver is under 21 and has been drinking an alcoholic beverage, the officer must remove the vehicle and either immobilize it or impound it. Does not apply if the vehicle is properly registered and the driver of the vehicle is in compliance with the financial responsibility laws and if the spouse of the driver is present, has a valid license, is not impaired by alcohol, and represents to the peace officer that the car will be driven only to the driver's home or to a place of safety. Regulations governing duration, notification, early release, charges, etc. that currently pertain to impounded vehicles are extended to immobilized vehicles. An impounded vehicle can now be released if the owner or the owner's agent was not driving, the owner or agent is in the business of renting motor vehicles without drivers and the vehicle is registered as a rental vehicle. Contains an appropriation to ADOT to permit commercial driver schools and not more than 15 motorcycle dealers to act as third parties to administer commercial and motorcycle license exams respectively.

5/20- Signed by governor, Chap. 313, Laws 2005.

Budget

CHAPTER 286 (SB1513) BUDGET; GENERAL APPROPRIATIONS (Sen. Burns)

General appropriations bill to fund state agencies for fiscal year 2005-06. The bill includes a 12.5 per cent salary increase for Supreme, Appellate and Superior Court judges effective January 1, 2007. Justice of the Peace salaries will increase, as they are tied to Superior Court judge salaries pursuant to A.R.S. 22-125.

5/20- Signed by governor with line-veto exceptions, Chap. 286, Laws 2005.

CHAPTER 300, (HB 2776), CRIMINAL JUSTICE; BUDGET (Rep. Pearce)

Suspends adult probation ratios for Maricopa County in FY 2006. Continues the intent of the Legislature that Maricopa County to pay for its adult probation programs in FY 2006 including standard, intensive, interstate compact and community punishment. It is not the intent of the Legislature that the Administrative Office of the Courts (AOC) not allocate monies to Maricopa County for other probation programs or support services it provides for adult probation.

Prohibits the AOC from allocating any monies appropriated for adult probation to Maricopa County, except monies allocated for juvenile probation programs. This provision was contained in the FY 2004 and 2005 budget (Laws 2003, Ch. 263, § 83).

Requires the Maricopa County Board of Supervisors (Board) to provide administrative oversight and establish program standards for adult probation programs in Maricopa County.

Requires the Maricopa County Adult Probation Department to prepare and submit a monthly performance report to the JLBC and the Board. This provision was contained in the FY 2004 and 2005 budget (Laws 2003, Ch. 263, § 83).

Requires Maricopa County to provide the level of funding necessary to maintain the caseload capacity that existed as of December 1, 2002. This provision was contained in the FY 2004 and 2005 budget (Laws 2003, Ch. 263, § 83).

Allows Maricopa County to retain any monies collected by the County from the \$5 probation surcharge assessed pursuant to A.R.S. §12-114.01 on civil and criminal traffic violations.

Establishes the Attorney General Legal Services Cost Allocation Fund (AGLSCA Fund) for the purpose of reimbursing the Department of Law for general agency counsel. Monies in the fund are subject to Legislative appropriation. The AG shall administer the AGLSCA Fund. Requires all agency appropriated and non-appropriated funds to contribute a pro-rata share of the general agency counsel services provided by the Department of Law, beginning on July 1, 2006. The pro-rata share is payable by payroll fund source, 0.33% of the total payroll. Includes a list of exempted agencies. This section is effective July 1, 2006.

Requires the presiding judge of the superior court to additionally coordinate with an elected justice of the peace and submit a plan to the Supreme Court detailing how monies allocated to the county from the State Aid to the Courts Fund shall be used. Requires an elected justice of the peace to sign the plan.

Requires Pima County to quarterly reimburse the AOC for adult and juvenile probation costs in FY 2006. The total amount of reimbursement is \$1,381,900.

Once the monies are received by the AOC, it shall deposit them into the general fund.

Directs 9% of the Criminal Justice Enhancement Fund distribution from the General Fund to the Crime Laboratory Assessment Fund. States that these monies are for use by the Department of Public Safety and are exempt from distribution to political subdivisions. Monies in the Crime Laboratory Assessment Fund (A.R.S. § 41-2415) may be used to provide enhanced crime lab services, purchase/maintain scientific equipment for crime lab use and for education and training forensic scientists employed in crime labs.

Overrides A.R.S. §22-117, in FY 2006, the state shall pay 38.5% and the county shall pay 61.5% of the compensation and employee related expenditures for justices of the peace. Requires the county to pay the full amount of employer contribution to the Arizona State Retirement System or any county health plan. A.R.S. § 22-117 requires the state to pay 40% and the county to pay 60% of the compensation and employee related expenditures of a justice of the peace, except that the county must pay the full amount of the employer contribution to the retirement system or county health plan.

5/20 – Signed by governor. Chp. 300, Laws 2005.

6/03/05